



General Assembly

Substitute Bill No. 6399

January Session, 2013



AN ACT CONCERNING CHILDREN IN THE JUVENILE JUSTICE SYSTEM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2013*) At any proceeding
2 concerning the alleged delinquency of a child, no child shall be
3 physically restrained by the use of shackles, handcuffs or other
4 mechanical restraints prior to being adjudicated as delinquent, unless
5 the judge determines that the use of such restraints is necessary to
6 ensure the safety of the public. Nothing in this section shall be
7 construed as preventing a child from being physically restrained while
8 being transported from one place to another.

9 Sec. 2. Subsection (a) of section 46b-137 of the general statutes is
10 repealed and the following is substituted in lieu thereof (*Effective*
11 *October 1, 2013*):

12 (a) Any admission, confession or statement, written or oral, made by
13 a child under the age of sixteen to a police officer or Juvenile Court
14 official shall be inadmissible in any proceeding concerning the alleged
15 delinquency of the child, or in any criminal prosecution of the child,
16 making such admission, confession or statement unless made by such
17 child in the presence of the child's parent or parents or guardian and
18 after the parent or parents or guardian and child have been advised (1)

19 of the child's right to retain counsel, or if unable to afford counsel, to
20 have counsel appointed on the child's behalf, (2) of the child's right to
21 refuse to make any statements, and (3) that any statements the child
22 makes may be introduced into evidence against the child.

23 Sec. 3. Section 46b-146 of the general statutes is repealed and the
24 following is substituted in lieu thereof (*Effective October 1, 2013*):

25 (a) Whenever any child has been convicted as delinquent [, has been
26 adjudicated a member of a family with service needs] for the
27 commission of a serious juvenile offense or has signed a statement of
28 responsibility admitting to having committed a [delinquent act]
29 serious juvenile offense, and has subsequently been discharged from
30 the supervision of the Superior Court or from the custody of the
31 Department of Children and Families or from the care of any other
32 institution or agency to whom the child has been committed by the
33 court, such child, or the child's parent or guardian, may file a petition
34 with the Superior Court. If such court finds (1) that at least [two years
35 or, in the case of a child convicted as delinquent for the commission of
36 a serious juvenile offense,] four years have elapsed from the date of
37 such discharge, (2) that no subsequent juvenile proceeding or adult
38 criminal proceeding is pending against such child, (3) that such child
39 has not been convicted of a delinquent act that would constitute a
40 felony or misdemeanor if committed by an adult during such [two-
41 year or] four-year period, (4) that such child has not been convicted as
42 an adult of a felony or misdemeanor during such [two-year or] four-
43 year period, and (5) that such child has reached eighteen years of age,
44 the court shall order all police and court records pertaining to such
45 child to be erased. Upon the entry of such an erasure order, all
46 references including arrest, complaint, referrals, petitions, reports and
47 orders, shall be removed from all agency, official and institutional files,
48 and a finding of delinquency [or that the child was a member of a
49 family with service needs] shall be deemed never to have occurred.
50 The persons in charge of such records shall not disclose to any person
51 information pertaining to the record so erased, except that the fact of

52 such erasure may be substantiated where, in the opinion of the court, it
53 is in the best interests of such child to do so. No child who has been the
54 subject of such an erasure order shall be deemed to have been arrested
55 ab initio, within the meaning of the general statutes, with respect to
56 proceedings so erased. Copies of the erasure order shall be sent to all
57 persons, agencies, officials or institutions known to have information
58 pertaining to the delinquency [or family with service needs]
59 proceedings affecting such child. [Whenever a child is dismissed as not
60 delinquent or as not being a member of a family with service needs, all
61 police and court records pertaining to such charge shall be ordered
62 erased immediately, without the filing of a petition. Nothing in this
63 section shall prohibit the court from granting a petition to erase a
64 child's records on a showing of good cause, after a hearing, before the
65 time when such records could be erased.]

66 (b) Whenever any child has been convicted as delinquent for the
67 commission of a delinquent act other than a serious juvenile offense,
68 has been adjudicated a member of a family with service needs or has
69 signed a statement of responsibility admitting to having committed a
70 delinquent act other than a serious juvenile offense, and has
71 subsequently been discharged from the supervision of the Superior
72 Court or from the custody of the Department of Children and Families
73 or from the care of any other institution or agency to whom the child
74 has been committed by the court, and (1) at least two years have
75 elapsed from the date of such discharge, (2) no subsequent juvenile
76 proceeding or adult criminal proceeding is pending against such child,
77 (3) such child has not been convicted of a delinquent act that would
78 constitute a felony or misdemeanor if committed by an adult during
79 such two-year period, (4) such child has not been convicted as an adult
80 of a felony or misdemeanor during such two-year period, and (5) such
81 child has reached eighteen years of age, the court shall order all police
82 and court records pertaining to such child to be erased on the second
83 day of January of each year or on a date designated by the court
84 without the filing of a petition. Upon the entry of such an erasure
85 order, all references, including arrest, complaint, referrals, petitions,

86 reports and orders, shall be removed from all agency, official and
87 institutional files, and a finding of delinquency or that the child was a
88 member of a family with service needs shall be deemed never to have
89 occurred. The persons in charge of such records shall not disclose to
90 any person information pertaining to the record so erased, except that
91 the fact of such erasure may be substantiated where, in the opinion of
92 the court, it is in the best interests of such child to do so. No child who
93 has been the subject of such an erasure order shall be deemed to have
94 been arrested ab initio, within the meaning of the general statutes, with
95 respect to proceedings so erased. Copies of the erasure order shall be
96 sent to all persons, agencies, officials or institutions known to have
97 information pertaining to the delinquency or family with service needs
98 proceedings affecting such child.

99 (c) Whenever a child is dismissed as not delinquent or as not being a
100 member of a family with service needs, all police and court records
101 pertaining to such charge shall be ordered erased immediately,
102 without the filing of a petition. Nothing in this section shall prohibit
103 the court from granting a petition to erase a child's records on a
104 showing of good cause, after a hearing, before the time when such
105 records could be erased.

106 Sec. 4. (NEW) (*Effective October 1, 2013*) Any child convicted as
107 delinquent by the superior court for juvenile matters and committed to
108 the Department of Children and Families as a result of such conviction
109 and any person who is under the supervision of a juvenile probation
110 officer while on probation or under a suspended commitment to the
111 Department of Children and Families, who challenges the legality or
112 conditions of such commitment or placement by applying for a writ of
113 habeas corpus shall file such application with the superior court for
114 juvenile matters in the venue district established under section 46b-142
115 of the general statutes in which the commitment or placement was
116 ordered. Such application may be made by such child or person, or on
117 behalf of such child or person by his or her parent, guardian or
118 counsel, and shall name the Commissioner of Children and Families as

119 respondent. The determination of legality or conditions of such
120 commitment shall be made by the superior court for juvenile matters
121 in the civil session.

122 Sec. 5. Subsection (a) of section 46b-121 of the general statutes is
123 repealed and the following is substituted in lieu thereof (*Effective*
124 *October 1, 2013*):

125 (a) (1) Juvenile matters in the civil session include all proceedings
126 concerning uncared-for, neglected or abused children and youths
127 within this state, termination of parental rights of children committed
128 to a state agency, adoption proceedings pursuant to section 46b-129b,
129 matters concerning families with service needs, contested matters
130 involving termination of parental rights or removal of guardian
131 transferred from the Probate Court, [and] the emancipation of minors
132 and applications for a writ of habeas corpus arising from a juvenile
133 matter in the criminal session, but does not include matters of
134 guardianship and adoption or matters affecting property rights of any
135 child or youth over which the Probate Court has jurisdiction, except
136 that appeals from probate concerning adoption, termination of
137 parental rights and removal of a parent as guardian shall be included.

138 (2) Juvenile matters in the criminal session include all proceedings
139 concerning delinquent children within this state and persons eighteen
140 years of age and older who are under the supervision of a juvenile
141 probation officer while on probation or a suspended commitment to
142 the Department of Children and Families, for purposes of enforcing
143 any court orders entered as part of such probation or suspended
144 commitment.

145 Sec. 6. Section 17a-8 of the general statutes is repealed and the
146 following is substituted in lieu thereof (*Effective October 1, 2013*):

147 (a) All children and youths who are or have been committed to the
148 custody of the Commissioner of Children and Families as delinquent
149 shall remain in such custody until the earliest of the following: (1) The

150 date such commitment expires as provided by order of the Superior
151 Court, (2) the date such commitment terminates as provided by order
152 of the Superior Court, or (3) the date the child or youth attains the age
153 of twenty. Any child or youth who while placed in an institution
154 administered by the Department of Children and Families escapes
155 from such institution or any child or youth who violates the terms or
156 conditions of parole may be returned to actual custody. The request of
157 the Commissioner of Children and Families, or the commissioner's
158 designee, shall be sufficient warrant to authorize any officer of the
159 Department of Children and Families or any officer authorized by law
160 to serve criminal process within this state to return any such child or
161 youth into actual custody; and any such officer, police officer or
162 constable shall arrest and hold any such child or youth when so
163 requested, without written warrant.

164 (b) If the commissioner finds that a child or youth committed to his
165 custody as delinquent who is fourteen years of age or older cannot
166 benefit from continued school attendance or has graduated from high
167 school and if the commissioner further finds that such person may
168 benefit from part or full-time employment at some useful occupation,
169 the commissioner may place the child or youth on vocational parole,
170 under the supervision of an employee of the department. For the
171 purposes of this section, the limitations of subsection (a) of section 31-
172 23, on the employment of minors under the age of sixteen years, shall
173 not apply for the duration of such vocational parole.

174 Sec. 7. Section 51-296a of the general statutes is repealed and the
175 following is substituted in lieu thereof (*Effective October 1, 2013*):

176 (a) The judicial authority before whom a family relations matter
177 described in subparagraph (A) of subdivision (1) of subsection (c) of
178 section 51-296 is pending shall determine eligibility for counsel for a
179 child or youth and the parents or guardian of a child or youth if they
180 are unable to afford counsel and are indigent according to the income
181 and eligibility guidelines promulgated by the Public Defender Services
182 Commission. Upon a finding that a party is unable to afford counsel

183 and is indigent according to such guidelines, the judicial authority
184 shall appoint an attorney to provide representation from a list of
185 qualified attorneys provided by the office of Chief Public Defender.

186 (b) The judicial authority before whom a juvenile matter described
187 in subparagraph (B) of subdivision (1) of subsection (c) of section 51-
188 296 is pending shall notify the office of Chief Public Defender who
189 shall assign an attorney to represent the child or youth. The judicial
190 authority shall determine eligibility for counsel for the parents or
191 guardian of the child or youth if such parents or guardian is unable to
192 afford counsel and is indigent according to the income and eligibility
193 guidelines promulgated by the Public Defender Services Commission.
194 Upon a finding that such parents or guardian is unable to afford
195 counsel and is indigent according to such guidelines, the judicial
196 authority shall notify the office of Chief Public Defender of such
197 finding, and the office of Chief Public Defender shall assign an
198 attorney to provide representation.

199 (c) For the purposes of determining eligibility for appointment of
200 counsel pursuant to subsection (a) or (b) of this section, the judicial
201 authority shall cause the parents or guardian of a child or youth to
202 complete a written statement under oath or affirmation setting forth
203 the parents' or guardian's liabilities and assets, income and sources
204 thereof, and such other information as the Public Defender Services
205 Commission designates and requires on forms adopted by the
206 commission. The judicial authority shall determine eligibility for
207 appointment of counsel in accordance with the income and eligibility
208 guidelines promulgated by the Public Defender Services Commission.

209 (d) The payment of any attorney who was appointed prior to July 1,
210 2011, to represent a child or indigent parent in any case described in
211 subparagraph (A) of subdivision (1) of subsection (c) of section 51-296
212 who continues to represent such child or parent on or after July 1,
213 2011, shall be processed through the office of Chief Public Defender
214 and paid at the rate that was in effect at the time of such appointment.

215 Sec. 8. Section 51-299 of the general statutes is repealed and the
216 following is substituted in lieu thereof (*Effective October 1, 2013*):

217 Except in cases in which counsel has been appointed pursuant to
218 subsection (c) of section 51-296, whenever a person requesting services
219 pursuant to this chapter is under the age of eighteen years, eligibility
220 for services shall be measured in terms of the financial circumstances
221 of such person and of his parents, guardians, or those legally
222 responsible for the support of such person. The commission shall be
223 entitled to recover the reasonable cost of legal services, as determined
224 in accordance with the schedule of reasonable charges for public
225 defender services provided by the commission, from the parents,
226 guardians, trustees or those legally responsible for the support of such
227 person and the provisions of section 51-298 shall apply to such
228 persons. In so doing, it shall have the authority to require such parents,
229 guardians or other such persons as well as those persons holding
230 property in trust or otherwise for such minor or unemancipated
231 person to execute and deliver to the commission or its employees any
232 written requests or authorizations required under applicable law or
233 otherwise to provide the Chief Public Defender or those serving under
234 him with access to such records of public or private sources, otherwise
235 confidential, or any other information which may be relevant to the
236 question of eligibility or liability to the commission under this chapter.
237 The commission shall be entitled to recover the reasonable cost of legal
238 services, as determined in accordance with the schedule of reasonable
239 charges for public defender services provided by the commission, from
240 the Judicial Department in any proceeding wherein the court
241 appointed counsel over the objection of the Office of Chief Public
242 Defender, provided said office determined that the person was not
243 indigent in accordance with the income and eligibility guidelines
244 promulgated by the Public Defender Services Commission.

245 Sec. 9. Section 4-141 of the general statutes is repealed and the
246 following is substituted in lieu thereof (*Effective from passage*):

247 As used in this chapter: "Claim" means a petition for the payment or

248 refund of money by the state or for permission to sue the state; "just
249 claim" means a claim which in equity and justice the state should pay,
250 provided the state has caused damage or injury or has received a
251 benefit; "person" means any individual, firm, partnership, corporation,
252 limited liability company, association or other group, including
253 political subdivisions of the state; "state agency" includes every
254 department, division, board, office, commission, arm, agency and
255 institution of the state government, whatever its title or function; and
256 "state officers and employees" includes every person elected or
257 appointed to or employed in any office, position or post in the state
258 government, whatever such person's title, classification or function
259 and whether such person serves with or without remuneration or
260 compensation, including judges of probate courts, employees of such
261 courts and special limited conservators appointed by such courts
262 pursuant to section 17a-543a. In addition to the foregoing, "state
263 officers and employees" includes attorneys appointed as victim
264 compensation commissioners, attorneys appointed by the Public
265 Defender Services Commission as public defenders, assistant public
266 defenders or deputy assistant public defenders and attorneys
267 appointed by the court as Division of Public Defender Services
268 assigned counsel or guardians ad litem, individuals appointed by the
269 Public Defender Services Commission, or by the court, as a guardian
270 ad litem or attorney for a party in a neglect, abuse, termination of
271 parental rights, delinquency or family with service needs proceeding,
272 the Attorney General, the Deputy Attorney General and any associate
273 attorney general or assistant attorney general, any other attorneys
274 employed by any state agency, any commissioner of the Superior
275 Court hearing small claims matters or acting as a fact-finder, arbitrator
276 or magistrate or acting in any other quasi-judicial position, any person
277 appointed to a committee established by law for the purpose of
278 rendering services to the Judicial Department, including, but not
279 limited to, the Legal Specialization Screening Committee, the State-
280 Wide Grievance Committee, the Client Security Fund Committee, the
281 advisory committee appointed pursuant to section 51-81d and the
282 State Bar Examining Committee, any member of a multidisciplinary

283 team established by the Commissioner of Children and Families
 284 pursuant to section 17a-106a, and any physicians or psychologists
 285 employed by any state agency. "State officers and employees" shall not
 286 include any medical or dental intern, resident or fellow of The
 287 University of Connecticut when (1) the intern, resident or fellow is
 288 assigned to a hospital affiliated with the university through an
 289 integrated residency program, and (2) such hospital provides
 290 protection against professional liability claims in an amount and
 291 manner equivalent to that provided by the hospital to its full-time
 292 physician employees.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	New section
Sec. 2	<i>October 1, 2013</i>	46b-137(a)
Sec. 3	<i>October 1, 2013</i>	46b-146
Sec. 4	<i>October 1, 2013</i>	New section
Sec. 5	<i>October 1, 2013</i>	46b-121(a)
Sec. 6	<i>October 1, 2013</i>	17a-8
Sec. 7	<i>October 1, 2013</i>	51-296a
Sec. 8	<i>October 1, 2013</i>	51-299
Sec. 9	<i>from passage</i>	4-141

Statement of Legislative Commissioners:

The provisions of section 3(b) were made applicable to a delinquent act "other than a serious juvenile offense" for accuracy.

KID *Joint Favorable Subst.*